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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,371	09/18/2001	Guy C. Erb	45591/SAH/X2	8349
35114	7590	11/22/2005	EXAMINER	
ALCATEL INTERNETWORKING, INC. ALCATEL-INTELLECTUAL PROPERTY DEPARTMENT 3400 W. PLANO PARKWAY, MS LEGL2 PLANO, TX 75075			AHMED, SALMAN	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/955,371	ERB ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Salman Ahmed	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 4-5 of the Remarks section, filed 8/05/2005, with respect to the rejection of claim 25 under 35 U.S.C. 102(e) have been fully considered but they are not persuasive. Applicant argues that the Hama reference does not disclose a plurality of first nodes having no actual routing capability. However, examiner respectfully disagrees with this assertion. The present claim language is broad and in view of the broadest reasonable interpretation of this language, as indicated in the previous office action, a plurality of first nodes having no actual routing capability is anticipated by "VLAN 101" disclosed in Fig 12. Applicant further argues that a ROUTER CPE belonging to VLAN 101 transmits packet. As such Applicant argues that since a router is involved, it has actual routing capability. However, examiner respectfully disagrees with this assertion. The VLAN 101 does not know how to route packets from VLAN 101 to VLAN 1501. VLAN 101 has to use PE A 211 to route its packet through the core MPLS network. As such VLAN 101 does not have any core network routing capability, nor does it know of MPLS labels for routing. Further, Examiner respectfully disagrees with the Applicant's submission that the claims 27-29 are allowable for similar reasons.

### ***Claim Objections***

2. Claim 28 is objected to because of the following informalities:

Claim 28 is dependent on a cancelled claim 26.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 25, 27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Hama (US PAT 2004/0202171).

In regards to claim 25, Fig. 12 anticipates "A communication network", the network comprising: a plurality of first nodes having no actual routing capability being anticipated by "VLAN 101" disclosed in Fig 12, a second node having actual routing capability being anticipated by "edge router PE A-21 1" disclosed in Fig 12, and at least one interconnection between each first node and second node being anticipated by "path between edge router PE A-211 and VLAN 101 disclosed in Fig 12; wherein each first node interacts with second node over at least one interconnection between said node and second node to provide an emulated routing capability to first node being anticipated by interaction in which a packet is transmitted from a VLAN 101 to PE A 211 enroute to destination VLAN 1501 " as disclosed in Fig 12 or page 8, paragraph 92, lines 1-5.

In regards to claim 27, figure 6 switching hubs 215 and 217 anticipate a plurality of bridges including plurality of first nodes

In regards to claim 29, an L2/L3 network (Fig. 6) comprising: a plurality of bridges (figure 6 switching hubs 215 and 217), plurality of bridges having a plurality of first nodes "VLAN 101" disclosed in Fig 6, plurality of first nodes have not routing capability "VLAN 101" disclosed in Fig 6, an external Router "edge router PE 211" disclosed in Fig 6, said external Router having a plurality of nodes, each of plurality of nodes of router having actual routing capability "edge router PE 211" disclosed in Fig 6; at least one interconnection between plurality of nodes of external router and plurality of first nodes of plurality of bridges being anticipated by "path between edge router PE 211 and VLAN 101 disclosed in Fig 6; and wherein each of said plurality of nodes of said external router interacts with plurality of first nodes over at least one interconnection to provide an emulated routing capability to first node being anticipated by interaction in which a packet is transmitted from a VLAN 101 to PE A 211 enroute to destination VLAN 1501 " as disclosed in Fig 6.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2666

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hama (US PAT 2004/0202171), in view of Boyle et al. (US PAT 6831932), hereinafter referred to as Boyle.

In regards to claim 28, MPLS enabled L2/L3 network with bridges as described in the rejections of claims 25, 27 above.

In regards to claim 28 Hama does not explicitly teach the bridges being MPLS enabled.

In regards to claim 28 Boyle teaches (column 9 lines 21-26) bridges could be MPLS enabled.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hama's teaching by incorporating the teachings of Boyle of bridges being MPLS enabled. The motivation is that (as taught by Boyle, column 9

Art Unit: 2666

lines 21-26) MPLS tunneling enables bridge 202 and/or bridge 202' to determine route(s) for their traffic across packet network 204. In addition, MPLS tunneling enables bridge 202 and/or bridge 202' to find backup routes, and groom their traffic onto new, more optimal paths in the network.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Lyon et al (US 5,892,924).

Regarding claim 25, a plurality of first nodes having no actual routing capability is anticipated by "node 351" disclosed in Fig. 2a or column 17, lines 30-36; a second node having actual routing capability is anticipated by "node 21a", disclosed in Fig 2a or column 17, lines 25-46, and at least one interconnection between each first node and second node is anticipated by link 39<sub>1</sub> in Fig. 2a column 17, lines 29-36, wherein each first node interacts with second node over at least one interconnection between first node and second node to provide an emulated routing capability to first node is anticipated by "when the IP packet is transmitted from MN backbone 35<sub>1</sub> over the

Art Unit: 2666

network layer link 39<sub>1</sub>, the IP packet is received by the first gateway switch" disclosed in column 17, lines 33-61.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salman Ahmed whose telephone number is (571)272-8307. The examiner can normally be reached on 8:30 am - 5:00 pm.

Art Unit: 2666

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571)272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Salman Ahmed  
Examiner  
Art Unit 2666

SA

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